

1 Frank Liu
2 304 S. Jones Blvd #3416
3 Las Vegas, NV 89107
4 818-835-0498
5 frank.liu.96@gmail.com
6 Pro Se Plaintiff

9 **IN THE UNITED STATES DISTRICT COURT**
10 **FOR THE SOUTHERN DISTRICT OF NEW YORK**

| | |
|---|---|
| Frank Liu Plaintiff, vs. The Nielsen Company (US) LLC and TNC US HOLDINGS Defendants. | Case #1:22-cv-09084-JHR-OTW Plaintiff’s Motion To Extend Time to file Response in Opposition to Defendants’ Motion to Dismiss (ECF 54) |
|---|---|

MOTION AND NOTICE OF MOTION

19 Plaintiff is moving to extend his deadline to file his response in opposition to Defendants
20 Motion to Dismiss (ECF 54) to be due by May 31, 2024. Furthermore, Plaintiff proposes
21 Defendants' Reply Brief be due by July 1, 2024.

MEMORANDUM OF POINTS AND AUTHORITIES

INTRODUCTION

Plaintiff is seeking an extension to file his response in opposition to Defendants' Motion to Dismiss. He respectfully motions the Court to extend his deadline to submit his response brief in opposition to Defendants' Motion to Dismiss (currently set for March 11) **due by May 31, 2024**. The reasoning for this extension is contained in this motion.

ermore, Plaintiff proposes **Defendants' reply brief be due by July 1, 2024.**

BACKGROUND

Under Rule 6 of the Federal Rules, parties can extend deadlines before the deadline passed by requesting a Court order. Plaintiff does not believe Defendants will grant him extension. It is clear that Defendants believe they can file a motion to dismiss 7 months Plaintiff's Amended Complaint and get all the time they need even after their deadline. Plaintiff motioned to strike Defendants' Motion to Dismiss (ECF 66). Plaintiff more time to argue his opposition to Defendants' motion to dismiss.

Working on the opening brief for Plaintiff's motion to strike took up a lot of Plaintiff's time. Furthermore, Defendants also gamed the system by refusing to release Plaintiff's Sedgwick New Jersey Workers Compensation files, and Defendants waited hours to file their motion to stay discovery (ECF 55). Plaintiff has spent a lot of time responding to Defendants' motion to stay discovery. Plaintiff made sure his opposition to Defendants' motion letter to stay discovery was submitted to the Court on time (ECF 67) with exhibits (ECF 67-1). Plaintiff wished he had more time to work on them. Plaintiff submitted the Response in Opposition to Defendants' Motion Letter to Stay Discovery on March 4, 2024 at 11:14 EST which was less than an hour from the deadline. Plaintiff was rushed. Rushing to complete briefs is prejudicial to Plaintiff because rushing may result in mistakes or not having enough time to make all arguments that Plaintiff would have had time to make.

1 One example of a mistake in ECF 67 and 67-1 is Plaintiff identified the website
 2 where Nielsen employees talk online about layoffs as “[layoffs.com](#)” where the actual
 3 website is “[**thelayoff.com**](#).” Had Plaintiff had more time to work on his opposition
 4 response to Defendants motion letter to stay discovery, Plaintiff would have likely caught
 5 the mistake before the deadline elapsed as he would have had more time to finish and check
 6 for mistakes.

7 “[**TheLayoff.com**](#)” is the website identified in docket 67 on page 16, and in docket
 8 67-1 on page 22. As an example, <https://www.thelayoff.com/t/1re2oju3> is where Nielsen
 9 racists have gone online mocking the intelligence of India’s population.

10


-37


Global Centers of Excellence? India's average IQ is 77

<https://www.worlddata.info/iq-by-country.php>

9 days ago by Anonymous | 1198 views | 135 reactions (+49/-86) | 9 replies (last 5 days ago)
 Post ID: @OP+1re2oju3

11

12 As you can see, there have been 49 upvotes to the racist thread meaning many Nielsen
 13 employees agree with the poster’s racist perspective.

14

15 There are also other replies Nielsen employees have posted that could be considered
 16 racially charged. Here are two examples:

20


+23


I mean, yeah. One of India's leading industries is internet scam centers, which is probably going to be one of Nielsens major hiring pools.

7 days ago by Anonymous | 29 reactions (+26/-3)
 Post ID: @2vix+1re2oju3

21

22


+14


GCC = Global Centers of Cr-p

9 days ago by Anonymous | 36 reactions (+25/-11)
 Post ID: @kcs+1re2oju3

23

24

1 Had Plaintiff had more time to work on his response in opposition to Defendants' motion
2 letter to stay discovery, it is likely that Plaintiff would have caught the mistake that the
3 website is actually "**TheLayoff.com**" instead of "layoffs.com" (which is incorrect).
4 Plaintiff **does not** want to be rushed on his response to Defendants motion to dismiss (ECF
5 54) because he needs more time to work on it. Plaintiff believes he would be prejudiced if
6 he is rushed to complete the response considering he is a pro se party and is not a lawyer.
7

8 REASONS IN FAVOR FOR GRANTING EXTENSION

9 For Plaintiff's Response in Opposition to Defendants' Motion to Dismiss (ECF 54),
10 Plaintiff wants to ensure he has enough time to make as best an argument as he can and to
11 minimize mistakes. This is one reason why Plaintiff is asking in good faith for the Court to
12 grant him an extension to make his response to Defendants' Motion to Dismiss be due by
13 May 31, 2024.

14 Another reason why Plaintiff needs more time is Defendants had over 7 months to
15 consider Plaintiff's Amended Complaint (ECF 44) before filing their motion to dismiss
16 (ECF 54). Defendants submitted a lengthy motion to dismiss, and Plaintiff hasn't yet had
17 the willpower to read everything contained in their motion to dismiss. It is hard for Plaintiff
18 to read Defendants' motion to dismiss all at once because it creates psychological harm as it
19 is very upsetting at how Defendants misrepresent facts just by briefly glancing over their
20 motion to dismiss.

21 Not only will rushing Plaintiff to complete his opposition to Defendants' motion to
22 dismiss be prejudicial to Plaintiff (considering how much time Defendants had to file their
23 motion to dismiss), being forced to work hours and hours on end straight in a rush will be
24 detrimental to Plaintiff's mental health. Opposing Defendants' motion to dismiss is very
25 uncomfortable because it forces Plaintiff to deep dive into what happened and reliving the
26 trauma and hurt of Nielsen's actions. Plaintiff believes a longer deadline for his opposition
27 response will benefit Plaintiff's mental health. Lawyers who are not a party to the lawsuit
28 don't relive trauma because it isn't personal to them because the illegal acts were not done

1 to them. In this case, Nielsen has violated employment law numerous times, and has
2 greatly affected Plaintiff already.

3 Plaintiff has not worked in the US since Nielsen. The last job Liu had after Nielsen
4 was as a teacher overseas. Liu left the US in 2019 shortly after his termination because of
5 the psychological harm Nielsen inflicted on him. Since returning to the US in 2021, Liu
6 has not had a job. Liu was homeless for over a year. What Nielsen did to Liu has greatly
7 impacted Liu's mental health and the damage still affects Liu today.

8 I hope the Court will understand I need more time to oppose Defendants' motion to
9 dismiss for the following reasons:

10 **1)** Plaintiff is not a lawyer and needs more time for research on case law, writing, and
11 ensuring his finalized response is as best as he can make it despite not being a lawyer. This
12 lawsuit matters a lot to Plaintiff. Plaintiff wishes he never worked for Nielsen in the first
13 place because Nielsen's actions has been greatly detrimental to Plaintiff's life. Plaintiff
14 seeks justice and will fight hard for it, and he needs more time to oppose Defendants'
15 motion to dismiss.

16 **2)** Defendants filed an untimely motion to dismiss over 7 months after Plaintiff filed
17 his Amended Complaint (ECF 44). Defendants' actions granted them to have a lot more
18 time to work on their motion to dismiss (ECF 54) despite not asking for an extension before
19 there 21 days were up. Although Plaintiff did motion to strike Defendants untimely motion
20 to dismiss, that still needs to be fully briefed by parties. Plaintiff also needs to work on a
21 Reply Brief after Defendants submit their Opposition Brief to Plaintiff's Motion to Strike,
22 which will also take up more of Plaintiff's time in the future.

23 **3)** Working hours and hours straight to rush finishing a brief prejudices Plaintiff
24 because being rushed can lead to unintentional mistakes, especially for a non-lawyer. Being
25 rushed can also lead to not making as effective of an argument as intended to oppose
26 Defendants' motion to Dismiss. Defendants have paid legal subscriptions which Plaintiff
27 does not. Defendants probably have access to paid WestLaw, LexisNexis and/or other legal

1 databases. Plaintiff does not have those paid subscriptions so research can be more difficult
2 and/or time consuming for Plaintiff. Plaintiff is not a lawyer.

3 **4) What Nielsen did to Plaintiff has already psychologically traumatized Plaintiff. It**
4 would benefit Plaintiff's mental health to not have to rush and focus on what happened
5 hours and hours on end for days upon days at a time. Instead, doing it peacemeal and over
6 a longer period of time will help minimize the very uncomfortable nature of reliving what
7 happened.

8 **5) Defendants' lead attorney Ms. Spangler will not be prejudiced by giving Plaintiff**
9 more time to respond to Defendants' motion to dismiss. Spangler is also representing
10 Nielsen on a different lawsuit which is "Justin Franks v. The Nielsen Company et al." Mr.
11 Franks has posted online about his lawsuit on LinkedIn here:

12 [https://www.linkedin.com/pulse/i-filed-federal-lawsuit-against-nielsen-my-former-
13 employer-franks-3uezc/](https://www.linkedin.com/pulse/i-filed-federal-lawsuit-against-nielsen-my-former-employer-franks-3uezc/)

14 Plaintiff is not a party to Justin Franks' lawsuit, but was not surprised to hear Nielsen
15 has been sued again as they have a culture of racism, discrimination and retaliation. Here is
16 a screenshot of Justin Franks' LinkedIn post:

17 I have decided to file a discrimination and retaliation lawsuit against my former
18 employer, **Nielsen**, in the **Federal U.S. District Court for the Western District of**
19 **Washington State** because I believe they discriminated and retaliated against me
20 The filed case document is public record. Initial Case number 2:23-cv-01907,
21 revised case number 3:23-cv-06150-TMC. I have also filed a complaint with the
22 Equal Employment Opportunity Commission (EEOC).

23 Filing a case against an employer, past or present, requires a great deal of
24 certainty, courage, and self-sacrifice. This is why only a small fraction of people
25 that suffer workplace discrimination and retaliation actually file. Filing helps hold
26 employers accountable and it also helps improve conditions for all employees. I
27 am hopeful my courage and sacrifice will enable both to happen. My purpose of
28 letting people know is to bring awareness to the issues just as any other media
outlet would if they picked up the story by monitoring Federal court case filings.

If you want to read the public record of what was filed, here is the link: **Federal
Court Public Record**.

1 It appears Justin Franks' circumstances is similar to those of Cheryl Grace who sued
 2 Nielsen for what appears to be similar reasons and/or circumstances. The point Plaintiff is
 3 trying to make is that Winston & Strawn attorneys attached to this lawsuit have other cases
 4 (either with Nielsen and/or other clients) to bill. Thus, giving Plaintiff more time will not
 5 prejudice Defendants' well-paid attorneys as Plaintiff believes many employer defense
 6 attorneys have at least several cases running at once. Furthermore, Defendants will not be
 7 prejudiced by the extension especially when they purposefully waited 7 months to file their
 8 motion to dismiss. If Nielsen would be prejudiced by delay, then they should have filed
 9 their motion to dismiss within 21 days after Plaintiff's Amended Complaint. Due to
 10 Nielsen's actions of unnecessary delay, Plaintiff had to file a motion to strike. Due to
 11 Nielsen's actions of refusing to provide Sedgwick NJ Workers Compensation files to
 12 Plaintiff, Plaintiff also had to oppose that. Those took up a lot of Plaintiff's time.

13 **6)** Defendants ignored Plaintiff's request for discovery for months. Defendants could
 14 have filed a motion to stay discovery back in October of 2023 (but they didn't). Plaintiff
 15 even mentioned Defendants had not filed a motion to stay discovery in an email sent to
 16 Defendants' attorneys back in October 2023:

17
 18 F L <frank.liu.96@gmail.com>
 to Caitlin, Cardelle, Aubrey ▾
 Ms. Spangler,
 Laura was added to the email by mistake. I have removed her and added Caitlin Tran who was supposed to be on the original email instead.
 We had our Rule 26 meet and confer several months ago. Defendants have not filed a motion to stay discovery. Therefore, please let me know when we can confer, or if you are refusing to confer.
 Thank you.

21 Not only did Ms. Spangler refuse to confer with Plaintiff, Defendants refused
 22 discovery and waited months until January 26, 2024 to file their motion letter to stay
 23 discovery.

24
 25 Spangler, Cardelle <CSpangler@winston.com>
 to Aubrey, me, Caitlin ▾
 Your request is premature. In addition, a request by email is not appropriate. Accordingly, there is no need for a meet and confer.
 Thank you.
 Cardelle
 Cardelle Spangler
 Winston & Strawn LLP
 D +1 312-558-7541
 winston.com
 26
 27
 28

1 Furthermore, Plaintiff believes he will win against Defendants' motion to stay discovery.
2 Defendants should have willingly provided Plaintiff his New Jersey Workers Compensation
3 Case Files years ago. Defendants choose to block its release. Plaintiff believes being
4 provided with the Sedgwick New Jersey Case Files will help Plaintiff make the full
5 argument he intends to make in his opposition motion to Defendants' motion to dismiss.

6 **7)** Plaintiff has over 100 pages of rebuttal he submitted to the EEOC when his case
7 was with them. His case was with the EEOC for over 1.5 years. Plaintiff needs time to go
8 over the documents and possibly redact personal information before attaching some or all of
9 his rebuttal documents as an exhibit. Looking through the hundred+ pages will take time
10 and won't be pleasant because it causes Plaintiff to further relive what happened at Nielsen.

11 **8)** Plaintiff is not a lawyer and might need time to seek free legal advice from
12 lawyers from Avvo.com (or maybe even from NYLAG Legal Clinic for Pro Se Litigants) if
13 he gets stuck on something and runs into difficulty with his response to Defendants' motion
14 to dismiss.

15 **9)** Plaintiff originally wanted his response to Defendants' motion to dismiss be due
16 28 days after the Court rules on Plaintiff's motion to strike Defendants' motion to dismiss
17 (see Plaintiff's Proposed Scheduling Order contained in ECF 57). The Court did not grant
18 him that timeline. In Docket 62, Plaintiff only motioned for 14 additional days because he
19 was erring on the safe side by only asking for 14 days, even though it was not enough time.
20 Plaintiff had proposed for more time in ECF 57, but the Court refused that request.

21 Plaintiff is now asking for the time he needs to oppose Defendants motion which is
22 longer than the 14 days contained in ECF 62. Plaintiff hopes the Court understands pro se
23 parties need more time to make legal arguments. Plaintiff has barely started his response to
24 Defendants' motion to dismiss because both Plaintiff's Motion to Strike (ECF 66) and
25 Plaintiff's Opposition to Defendants' Motion Letter to Stay Discovery (ECF 67) took up a
26 lot of Plaintiff's time. Despite spending so much time on the briefs, Plaintiff was still
27 rushed to finish, and the deadline was very near so Plaintiff had to finish and submit them to
28 get them in on time. Because Plaintiff had to work on those two briefs, those took up a lot

1 of Plaintiff's time. I hope the Court understands the difficulties for pro se parties who are
2 determined to fight for their civil rights in court. Plaintiff hopes the Court will grant him
3 the extension.

4 Defendants have a team of lawyers and support staff. Plaintiff is pro se and
5 Plaintiff's ECF 66 was submitted on Feb 26, 2024 at 10:30 PM EST, and Plaintiff's ECF 67
6 and 67-1 was submitted on March 4, 2024 at 11:14 PM EST. Plaintiff's briefs were already
7 rushed and being in such a rush is prejudicial to Plaintiff. Plaintiff has worked very hard on
8 both ECF 66 and 67 and that already took away a lot of time away from Plaintiff from
9 working on Plaintiff's opposition to Defendants' motion to dismiss. Plaintiff believes it
10 would be in the interest of justice to grant Plaintiff's extension request.

11

12 **DISCLAIMER**

13 Plaintiff has submitted a motion to strike Defendants' motion to dismiss in its
14 entirety and does not believe the Court should allow Defendants more than 6 month late
15 motion to dismiss (ECF 54) to proceed. However, because it takes time for the Court to
16 make their decision on the motion to strike (especially when the motion has not been fully
17 briefed by both parties), Plaintiff will still prepare for the worst outcome and work hard on
18 his Response in Opposition to Defendants' Motion to Dismiss in the meantime because
19 working on the response will take up a lot of Plaintiff's time and he wants his opposition to
20 to be successful should his motion to strike fail. This Motion for Extension to file
21 Plaintiff's response in Opposition to Defendants' Motion to Dismiss should not be viewed
22 as Plaintiff's acceptance that Defendants' motion to dismiss is timely. That decision rests
23 on the Court to decide after the motion to strike has been fully briefed by both Plaintiff and
24 Defendants.

25

26 **CONCLUSION**

27 Plaintiff asks the Court to grant this extension request for his Response to
28 Defendants' Motion to Dismiss be due by May, 31, 2024 based on the reasoning contained

1 in this motion. Furthermore, Plaintiff proposes Defendants reply brief be due by July 1,
2 2024, which Plaintiff believes is more than enough time for Defendants because Plaintiff
3 believes Defendants have 3 lawyers, support staff, pretty much unlimited resources and
4 their lawyers have access to paid subscriptions like LexisNexis and/or WestLaw, etc.

5

6

Respectfully submitted,

8
9 Frank Lee

10

11 Dated 3/5/2024 Frank Liu

Frank Liu

12

14

15

16

17

18

19

20

21

22

23

24

25

26

27